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OFFICE OF PETITIONS

In re Patent No. 6,412,146	:	Paper No. 8
Issue Date: July 02, 2002	:	
Application No. 09/774,978	:	DECISION ON PETITION
Filed: January 31, 2001	:	
Attorney Docket No.	:	

This is a decision on the submission filed September 22, 2010, which is being treated as a petition under 37 CFR 1.378(c), to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

This patent expired at midnight on July 02, 2010 for failure to pay the seven and one-half maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1), (2) & (3) above. There is no statement about the delay being unintentional. It is noted that the submission is signed by Rita Kimbell who is neither an inventor nor an attorney registered to practice before the office. Also, it is not clear from the file record if Rita Kimbell is authorized to act on behalf of the assignee. In submitting a renewed petition, petitioner is strongly urged to use the attached form PTO/SB/66. Petitioner should note that an assignee must comply with the requirements of 37 CFR 3.73(b). See MPEP § 324.

The total amount maintenance fee that is due (for a small entity) is \$1240 and a surcharge of \$1640 is required for unintentional delay. Petitioner has paid \$515 for the maintenance fee. The balance of \$2765 (that includes the \$400 fee for a renewed petition) is now due and must be included with a properly signed renewed petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

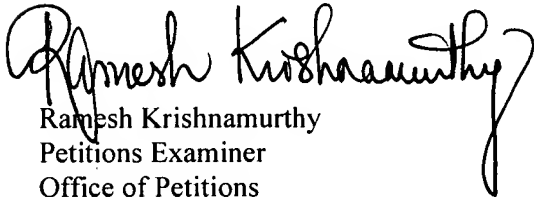
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
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By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to Tredelle Jackson at 571-272-2783.


Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Encl: PTO/SB/66